

REMARKS

This paper is prepared in response to the Office action mailed 14 May 2007 (Paper No. 20070503).

In Paper No. 20070503, the Examiner objects to the Reissue Declaration filed with the application and the Reissue Declaration filed on 4 April 2003 and erroneously asserts that the Reissue Declaration fails to contain an unidentified statement specified under 37 C.F.R. §1.175(a)(1).

The Examiner states that,

“[t]he reissue oath/declaration filed 4/4/03 is still defective, because the error should be specified for all independent Claims with different subject matters claimed” (quoting from paragraph 4 of No. 20070503). The Examiner further requires that, **“[s]uch as the applicant fails to say that we fail to claim the new claims subject matters in the original patent and we want to broaden the original claim, therefor this Patent with original claims is inoperative** (quoting from paragraph 4 of Paper No. 20070503)”.

It is submitted that Applicant has found such requirement nowhere either under 37 C.F.R. §1.175(a)(1) or under MPEP §1414. More particularly, under 37 C.F.R. §1.75(c),

“[h]aving once stated an error upon which the reissue is based, as set forth in paragraphs (a)(1), unless all errors previously stated in the oath or declaration are no longer being corrected, a subsequent oath or declaration under paragraph (b) of this section need not specifically identify any other error or errors being corrected.”

In short, the requirements imposed by the Examining staff for a supplemental reissue declaration is at variance with 37 C.F.R. §1.75(c), and is thus improper. Nothing in

either 37 C.F.R. §1.175(a)(1) or in either §1414 or §1414.01 requires that Applicant specify the errors **for all independent claims** with different subject matter claimed. 37 C.F.R. §1.175(a)(1) states:

“The applicant believes the original patent to be wholly or partly inoperative or invalid by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than the patentee had the right to claim in the patent, stating at least one error being relied upon as the basis for reissue (quoting from 37 C.F.R. §1.175(a)(1)).”

Applicant's Reissue Declaration filed on 4 April 2003 states that:

“Pursuant to 37 C.F.R. §1.175, the Applicant believes the original patent to be wholly or partly inoperative or invalid by reason of a defective specification or drawing, and by reason of the patentee claiming more or less than the patentee had the right to claim in the patent” (quoting from page 1 of the Reissue Declaration filed on 4 April 2003)

The 4 April 2003 Reissue Declaration further states the error which is relied upon as the basis for reissue as:

“By way of an example, **none of apparatus claims 1 through 8 provide broad definition of any of Applicant's disclosed processes.** Accordingly, independent method claims 9, 12, 13, 15 and 16 broadly define Applicant's disclosed processes in terms of a combination of steps including the color temperatures and gain and cut-off values. **Moreover, neither of Applicant's apparatus claims 1 or 5 broadly defined Applicant's control circuit.** Accordingly, apparatus claim 39 is presented to broadly define the control circuit in terms of the combination of the input unit and microcomputer. As presented, claims 9 through 73 remedy the foregoing errors and correct the inoperativeness and defectiveness by providing a broader coverage of Applicant's disclosed invention (emphasis supplied - quoting from page 1 of the Reissue Declaration filed on 4 April 2003)”

It is apparent therefore, that the Reissue Declaration filed on 4 April 2003 meets the requirement set forth under 37 C.F.R. §1.175(1)(a). Accordingly, the Examiner's objection to the Reissue is inappropriate, and should be withdrawn.

Moreover, MPEP §1414, sub-section II (B) states that,

“Applicant need only specify in the reissue oath/declaration one of the errors upon which reissue is based. **Where applicant specifies one such error, this requirement of a reissue oath/declaration is satisfied.** ... All that is needed for the oath/declaration statement as to error is the identification of ‘at least one error’ relied upon (emphasis supplied - quoting from MPEP §1414, Section II (B))”

MPEP §1414, Section II (B) specifies that all that is needed under 37 C.F.R. §1.75(a)(1) for the oath/declaration statement to comply with the requirement under 37 C.F.R. §1.75(a)(1) to identify error is to specify ‘at least one error’ relied upon (emphasis supplied - quoting from MPEP §1414, Section II (B)).” Applicant's originally filed reissue declaration conforms with this requirement by expressly specifying “**one such error**”; consequently, under current Office practice as explained by MPEP §1414, Section II (B), “**this requirement of a reissue oath/declaration is satisfied**” It is highly irregular for the Examining staff, without the written approval of the Tech Center's director, to suggest that Applicant's Reissue Declaration is defective. Moreover, under 37 C.F.R. §1.75(c), “[h]aving once stated an error upon which the reissue is based, as set forth in paragraphs (a)(1), unless all errors previously stated in the oath or declaration are no longer being corrected, a subsequent oath or declaration under paragraph (b) of this section need not specifically identify any other error or errors being corrected.” In view of this, it is submitted that the objection to the Reissue Declaration filed on 4 April 2003 under 37 C.F.R. §1.75(a)(1) is inappropriate, and should be

withdrawn.

Supplemental Reissue Declaration Under 37 C.F.R. §1.175(b)

For the errors corrected, which are not covered by Applicant's 4 April 2003 Reissue Declaration, Applicant is submitting a Supplemental Reissue Declaration with this Response.

As guided by the MPEP §1414.01, the following statements are incorporated into the accompanying Supplemental Reissue Declaration:

"I/We hereby declare that: Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and/or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant.

I/We hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon."

The accompanying Supplemental Reissue Declaration meets all the requirements under 37 C.F.R. §1.175(b), is proper in form, and therefore should be entered.

In view of the above, it is submitted that no other issues remaining, reconsideration and favorable action upon all of the claims present in the application is respectfully requested. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's undersigned attorney.

No fee is incurred by this Response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. E. Bushnell", written over a horizontal line.

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